

## Calendar No. 143

106TH CONGRESS }  
1st Session }

SENATE

{ REPORT  
106-72

### NATIVE HIRING BY THE FEDERAL GOVERNMENT IN ALASKA

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JUNE 9, 1999.—Ordered to be printed

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Mr. MURKOWSKI, from the Committee on Energy and Natural  
Resources, submitted the following

### REPORT

[To accompany S. 748]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 748) to improve Native hiring and contracting by the Federal Government within the State of Alaska, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 1, line 9, and page 2, line 4, strike “section 638” and insert “provisions”.
2. On page 3, strike line 21 and all that follows through the end of the bill.

#### PURPOSE OF THE MEASURE

The purpose of S. 748, as ordered reported, is to direct the Secretary of the Interior (Secretary) to submit a report detailing the progress the Department of the Interior has made in areas of hiring and contracting with Alaska Natives, or Native entities under sections 1307 and 1308 of the Alaska National Interest Lands Conservation Act and the Indian Self-Determination and Education Assistance Act. In addition, the Secretary is directed to provide a detailed action plan for future implementation of those Acts along with a listing of results that are expected to be achieved over the next three years.

The legislation also directs the Secretary to establish a pilot program to employ and contract with residents of local communities at four units of the National Park System in northwest Alaska.

## BACKGROUND AND NEED

In general, sections 1307 and 1308 of the Alaska National Interest Lands Conservation Act (ANILCA) directs the Secretary to provide a preference to local Alaska residents for job opportunities and for such services that the Secretary may contract under the provisions of ANILCA.

The Indian Self-Determination and Education Assistance Act (ISDEAA) provides for the promotion of maximum Indian participation in the government and education of the Indian people and provides for the full participation of Indian Tribes in certain programs and services conducted by the Federal Government.

Because of the way hiring records are kept, the use of sub-contractors, and other factors, the Department of the Interior (Department) cannot provide a comprehensive list of contracts and co-operative agreements it has with Alaska Natives or local residents.

The National Park Service is able to provide a snapshot of its employment records on certain days of the year, but the numbers and percentages fluctuate slightly as the Park Service workforce changes weekly. From the statistics available on December 31, 1998, 7.4 percent of National Park Service employees in Alaska were Alaska Natives. Other agencies within the Department show much lower numbers for Native hires on any given day of the year.

The Administration has promoted a policy that the Federal work force should, to the extent practical, mirror the ethnic and diverse population of the United States. There are many in Alaska who feel that the specific provisions of ANILCA and ISDEAA dealing with Native hiring and contracting are not being properly implemented because of the focus on national population statistics. Accordingly, the Committee believes that the Secretary should furnish the Congress with a report detailing the progress the Department has made in implementation. Alaska Natives provide a unique and valuable resource for the Federal Government, especially in areas such as interpretation and guide services. The Committee also believes that the Secretary should initiate a pilot program at those units of the National Park System located in northwest Alaska to employ residents of local communities and involve Native Corporation and Tribal entities in the development of interpretative materials and the design of the pilot programs.

## LEGISLATIVE HISTORY

S. 748 was introduced by Senator Murkowski on March 24, 1999. The Full Committee held a hearing on S. 748 on May 13, 1999.

At its business meeting on May 19, 1999, the Committee on Energy and Natural Resources ordered S. 748 favorably reported, as amended.

## COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on May 19, 1999, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 748, if amended as described herein.

## COMMITTEE AMENDMENTS

During its consideration of S. 748, the Committee adopted two amendments.

The first amendment is technical and deletes an incorrect citation.

The second amendment removes the provision that would have authorized Native entities to assume administrative and management responsibilities for units or portions of units of the National Park System. In addition, the provisions dealing with displaced career employees of the National Park Service are also deleted.

## SECTION-BY-SECTION ANALYSIS

*Section 1* directs the Secretary of the Interior to complete and submit a report on the progress the Department has made in implementing provisions of sections 1307 and 1308 of the Alaska National Interest Lands Conservation Act (ANILCA) and provisions of the Indian Self-Determination and Education Assistance Act.

*Section 2* requires that the Secretary implement pilot programs in four units of the National Park System in northwest Alaska to employ residents of local communities: Bering Land Bridge National Preserve, Cape Krusenstern National Monument, Kobuk Valley National Park and Noatak National Preserve. The Secretary is to report the results of the pilot program within one year.

The section also requires the Secretary to consult with Native Corporations, non-profit organizations and Tribal entities in the immediate vicinity of the affected park units and to the extent practical, to involve such groups in developing interpretive materials and pilot programs.

## COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 27, 1999.*

Hon. FRANK H. MURKOWSKI,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S.748, a bill to improve Native hiring and contracting by the federal government within the state of Alaska, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*S. 748—A bill to improve Native hiring and contracting by the federal government within the state of Alaska, and for other purposes*

Based on information from the National Park Service (NPS), CBO estimates that implementing S. 748 would increase discretionary spending by a total of about \$500,000 over fiscal years 2000 through 2004, with most or all of the outlays occurring in 200. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. S. 748 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no significant impact on the budgets of state, local, or tribal governments.

Section 1 of S. 748 would require the Department of the Interior (DOI) to transmit a report to the Congress on the department's efforts to hire and contract with Native Alaskans under the Alaska National Interest Lands Conservation Act and the Indian Self-Determination and Education Assistance Act. Section 2 would require DOI to implement pilot programs to employ local residents at four units of the National Park System in northwest Alaska and to prepare a report to the Congress on the results of these programs. According to the NPS, the agency plans to hire more local residents at these four units under current law. Subject to the availability of appropriated funds, completing the report required by section 1 would likely cost about \$300,000, and carrying out pilot programs under section 2 would cost about \$200,000.

The CBO staff contact is Megan Carroll. This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

## REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 748. The bill is not a regulatory measure in the sense of imposing Government-established standards of significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from enactment of S. 748, as ordered reported.

## EXECUTIVE COMMUNICATIONS

A formal legislative report has not been received from Executive Branch agencies on S. 748. When such reports are received, the Chairman will request that they be provided in the Congressional Record for the advice of the Senate. The testimony provided by the National Park Service at the Committee hearing on S. 748 follows:

STATEMENT OF STEPHEN C. SAUNDERS, DEPUTY ASSISTANT  
SECRETARY, FISH AND WILDLIFE AND PARKS, DEPART-  
MENT OF THE INTERIOR

Thank you for the opportunity to present the position of the Department of the Interior on S. 748, a bill to improve Native hiring and contracting by the Federal government within the State of Alaska.

The Department is committed to making every appropriate use of both our hiring and our contracting for goods and services to create opportunities for Alaska Natives. Under this Administration, the Department has done more than ever before to hire a diverse workforce that looks like America. That is true with respect to Alaska Natives as well as with other Americans. Our commitment is just as strong when it comes to creating economic opportunities for Alaska Native corporations and businesses through the use of government contracts.

The Secretary, however, would recommend that the President veto the bill in its current form, because it could be interpreted as establishing a pilot program for turning over the administrative and management responsibilities of national parks to local communities and residents. Now I would like to stress how our commitment shows from the results we have been able to achieve already, and from our efforts to do a better job where we have fallen short of our goals. Where we appropriately can do more than we have, we are trying to learn, from our own internal assessments and from others.

Let me begin with a snap shot of our current work force.

Alaska Natives make up 11 percent of the state's civilian labor force, according to National Civilian Labor Force statistics. Of the U.S. Fish and Wildlife Service's 549 permanent employees in Alaska, 36, or 6.6 percent, are Alaska Natives. The National Park Service has a work force of 540 individuals in Alaska. Forty of these individuals are Alaska Natives, approximately 7 percent of the work force. The Bureau of Land Management has a work force of 930 in Alaska. Alaska Natives hold 38, or approximately 4.1 percent, of these positions.

We are not satisfied with those numbers. For comparison, the Alaska state government has about 6.4 percent Alaska Native employees. In addition, according to comments some Alaska Native groups have made to us, the Department of the Interior has a better Native hire record than some Alaska Native corporations.

As you are well aware, Mr. Chairman, one of our major tools in hiring Alaska Natives is section 1308(b) of the Alaska National Interest Lands Conservation Act. That section of ANILCA gives the Department of the Interior special local-hire authority, enabling us to hire individuals who have lived or worked in or near public lands and as a result have acquired special knowledge or expertise concerning the natural or cultural resources of public lands,

or the management of them, without regard to some of the rules that otherwise apply to Federal civilian workforce employment decisions. Overall, one-third of the National Park Service's employees in Alaska, 10 percent of the Fish and Wildlife employees in Alaska, and one BLM employee (most BLM positions are in Anchorage and Fairbanks and are not covered by the local hire provisions) in Alaska, were hired under the local hire authority.

The local hire positions of ANILCA Section 1308 are not racially based; special consideration is given to local residents who have special knowledge of the conservation units near their communities. ANILCA provisions do not set any preference in the selection process based on race, ethnicity, color, national origin, or any other non-merit factor. Local hire selections must be based on the same merit principles contained in 5 U.S.C. 2301(b). Any violation of these principles (such as a selection based on Alaskan Native status) would be a prohibited personnel practice as defined in 5 U.S.C. 2302(b). However, consistent with all applicable federal employment rules, the local hire authority does make it possible to hire Alaska Natives, depending, of course, on the make-up of the local population. These are some results:

- In the four National Park System units named in section 2(a) of S. 748, over 75 percent of the staff of the units are long-time Alaskans, and about one-third of the staff was hired using the Section 1308 local-hire authority. In those units, 8 out of the total 27 staff positions, or 30 percent, are filled with Alaska Natives. If the Congress approves our budget request for fiscal year 2000, we will use \$324,000 to establish village liaisons and an ethnography program for these four park units, hiring six part-time village liaison ranger-ethnographers stationed in local villages to support park operations, as well as to inventory, document and manage ethnographic resources.

- Denali National Park and Preserve uses the local-hire program extensively, and about half of its workforce is locally hired. However, the park is not in close proximity to a large population of Alaska Natives, and only about 3 percent is Alaska Native.

The National Park Service recently made an intensive recruiting effort to encourage Alaska Natives to apply for the open position of manager of Alaska Public Lands Information Center in Fairbanks, notifying Native corporations and others about the opening and inviting them to informational briefings in both Fairbanks and Anchorage. About 110 people applied, many more than the 20 that normally would have been expected. This position was recently filled by an African American who is a long time Alaska resident.

- Since 1982, the Fish and Wildlife Service has employed 445 Alaska Natives through the local hire program.
- Over ninety-eight percent of the hires (out of 702 positions) made by the Emergency Firefighter Service of the

Bureau of Land Management last year were Alaska Natives. The Alaska Fire Service maintains a toll-free telephone number from October through the hiring season for job information for rural Alaska Natives to get up-to-date employment help. Three recruitment teams annually visit 21 villages to make sure Alaska Natives learn of these job opportunities.

The positions occupied by Natives in the Department of the Interior span the gamut of occupations, and include Aircraft Pilot, Subsistence Specialist, Chief of Interpretation, Park Ranger, Realty Specialist, Ethnography Specialist, Secretary, Maintenance Worker, Administrative Technician, Biological Technician, Wildlife Biologist, Public Use Specialist, and other occupations.

I would like to mention one obstacle that often makes it more difficult for us to hire Alaska Natives. We are constrained by the 25 percent Alaska Cost of Living Allowance, which is not enough to let us pay as much as the State of Alaska and local Native corporations for comparable jobs in many rural areas. Their salary levels are 15 to 40 percent higher than ours. The one exception is for maintenance positions, for which salary levels are based on Locality Wage Surveys. Because of this exception, it is easier for us to compete for maintenance workers, and, for example, all of the maintenance workers in the four parks listed in Section 2 of S. 748 are Alaska Natives. If we were able to compete equally in terms of the salaries we could offer for other positions, that would make a big difference. On the other hand, we could face even more of a handicap in hiring if the Alaska Cost of Living Allowance is reduced, as scheduled, in some areas in December 2000.

With respect to contracting with Alaska Natives, the Department also seeks to use its need for goods and services, when appropriate, to expand economic opportunities for Alaska natives. These are some examples:

- The National Park Service has entered into an annual funding agreement with an Alaskan Native group under the Tribal Self-Determination Act of Amendments of 1994. This agreement is with the Kawerak, a non-profit tribal organization, and calls for the Kawerak to conduct studies relating to Bering Land Bridge National Preserve. This agreement has been renewed three times since its inception, resulting in over \$300,000 in funding.
- A wholly-owned subsidiary of Goldbelt, Inc., a Juneau-area native corporation, has the concession contract at Glacier Bay National Park for lodging, meals, tours, and other services. For 1997, the most recent year for which figures are available, the gross receipts were \$5.3 million.
- In the fourth quarter of Fiscal Year 1998, the National Park Service in Alaska let about \$1.89 million in contracts; 38 percent of that amount, or more than \$723,000, was with Alaska Native firms. This included work such as tank removal by Ahtna Development Corporation in Wrangell-St. Elias National Park; environmental remediation work

by Native-owned Nugget Construction Inc. at Katmai National Park; painting and roof repair by Native-owned Paul Bunyan Contracting at Denali National Park; and construction by Native-owned Full Moon Construction Inc. at Klondike Gold Rush National Historic Site.

- Wrangell St. Elias National Park is about to award a multi-million dollar contract for the construction of a visitor center in the park. The AHTNA Native Corp. performed the land clearing for this Visitor Center under another contract, and is competing for this construction contract.

- The National Park Service also pays rent to Native corporations for the use of facilities. The Fairbanks headquarters for Gates of the Arctic National Park and Preserve and Yukon-Charley Rivers National Preserve is rented from Doyon Corporation for about \$125,000 per year. Western Arctic Parklands rents offices in Nome from the Sitnasuak Native Corporation for \$95,000 per year, and in Kotzebue from Kikiktagruk Inupiat Corporation for \$122,000 per year.

- The National Park Service pays \$284,000 to Native groups for research and community cultural projects relating to Bering Land Bridge, and nearly \$100,000 for cultural resource research projects at Wrangell St. Elias National Park.

- The Fish and Wildlife Service has entered into cooperative agreements with several Alaska Native organizations. Over \$2 million worth of services have been funded through these agreements.

- A 1995 Cooperative Agreement between the Fish and Wildlife Service and the Association of Village Council Presidents was used to implement and develop a cooperative management plan for Quallnguut caribou, brown bear, and Lower Yukon moose.

- The Fish and Wildlife Service has had an ongoing cooperative agreement with the Council of Athabaskan Tribal Government since 1992 that has called for the collection of harvest data for all mammals, birds, and fish in Arctic Village, Chalkytsik, Ft. Yukon, Stevens Village, Rampart, Beaver, Birch Creek, and Circle.

- The Fish and Wildlife Service entered into a cooperative agreement in 1995 with the Bristol Bay Native Association for the purpose of gathering migratory bird harvest data from 15 Bristol Bay area villages.

We believe that this record shows that the Department of the Interior is improving greatly in the area of Native hiring and contracting. However, I repeat that we are not satisfied, and that we welcome the opportunity to learn more about how we can do better.

We already have underway the preparation of one report mandated by Congress on our hiring and contracting with Alaska Natives. Public Law 105-333 includes provisions in Section 11 which require the Department of the Interior,



in cooperation with the U.S. Forest Service, to report to Congress on three topics:

- The actions taken by the Department in carrying out Subsection (b) of Section 1308 of ANILCA.
- Obstacles in the recruitment process that may restrict employees hired under Subsection (a) of Section 1308 from later obtaining positions in the competitive service.
- Actions by the Department of the Interior and the Forest Service in contracting with Alaska Native corporations to provide services with respect to public lands in Alaska. This would cover actions taken in implementing both Section 1307 of ANILCA and the Indian Self-Determination and Education Assistance Act.

This report is due by April 30, 2000, is under way, and is being funded through existing appropriations.

Section 1 of S. 748 would have us report to Congress on some of the same matters already covered by Public Law 105-333, as well as two particular matters not explicitly mandated by that law. First, S. 748 calls for a detailed action plan on how the Department will in the future implement sections 1307 and 1308 of ANILCA and section 638 of the Indian Self-Determination and Education Assistance Act, with a description of the results expected over the next three fiscal years. Second, S. 748 also calls for a report on any laws, regulations, and policies which act as a deterrent on contracting with Alaska Natives.

Rather than having two separate reports to Congress on the same general subject, both to be completed in about the same time frame, we believe it would be more cost-effective to have a single report. We suggest that we expand the report that is already required to also include the additional matters identified in S. 748.

Section 2 of S. 748 would require the Secretary of the Interior to establish a pilot program to employ residents of local communities in four National Park System units in northwest Alaska—Bering Land Bridge National Preserve, Cape Krusenstern National Monument, Kobuk Valley National Park, and Noatak National Preserve. According to the bill, “The objectives of such programs shall be, to the extent possible, to establish cooperative arrangements, through contracts or other means, that will allow local communities and residents to assume administrative and management responsibilities for those units, or portions of those units, of the National Park Service in a manner that will accomplish the purposes for which the units were established and consistent with the policies set forth in” the law establishing the National Park Service.

The Department, as I have already said, supports hiring local residents in these park units, as elsewhere in Alaska. But Section 2 apparently goes far beyond just hiring local residents in the parks; it provides that the “administrative and management responsibilities for those units” are to be turned over to local residents. This language can be interpreted as a pilot program for turning over the manage-

ment of national parks to local communities and residents. Obviously, the Department cannot support any legislation that would transfer to non-federal officials management responsibilities for units of the National Park System. These are, as the title of ANILCA states, national interest lands, owned by all Americans, which Congress has designated as part of the National Park System, to be managed by the National Park Service, in accordance with the same national laws, policies, and standards that apply throughout the National Park System. If the bill were to pass with these provisions of Section 2 in it, the Secretary of the Interior would recommend to the President that he veto the bill.

If this interpretation of the language in Section 2 is not what you intended, Mr. Chairman, we would like to work with you to better understand what you want to accomplish. Certainly, it can be possible for the National Park Service to contract out certain operations in a park, without in any way diminishing the Park Service's necessary management responsibility for the park. If that is what you are looking for, we would be glad to discuss with you or your staff how that can be accomplished in a way that would be acceptable to the Department.

This concludes my testimony. I would be happy to answer any of your questions.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 748, as ordered reported.

